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Delta Air Lines, Inc.
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December 27, 2002

Dockets Management System
US Department of Transportation
400 Seventh St., SW
Room PL 401
Washington, DC 20590

Dear Sir/Madam:

SUBJECT: COMMENTS TO DOCKET NUMBER RSPA-2002-13658 (HM-215E) -10

Delta Air Lines, Inc. (Delta) would like to thank you for the opportunity to comment on the above-referenced proposed rule and attempting to harmonize with international standards. As an international carrier, it is extremely difficult, at times, to comply with both domestic and international regulations when such regulations significantly differ from each other. After reviewing the Notice of Proposed Rulemaking, we would like to formally comment on several items.

49 CFR 172.202

(a)(2) "...Except for combustible liquids, the subsidiary hazard class or subsidiary division number(s) must be entered in parentheses following the primary hazard class or division number..."

The International Civil Aviation Organization (ICAO) currently recognizes three distinct sequences of Dangerous Goods information on shipping papers. The sequences recognized include:

Sequence 1) Proper shipping name (PSN), Primary hazard class (PH), Identification number (ID), Packing Group (PG), Subsidiary risk (SR)

Sequence 2) PSN, PH (SR), ID, PG

Sequence 3) ID, PSN, PH (SR), PG

According to the language in Paragraph (a)(2), the first sequence allowed by ICAO will not be permitted by 172.202. With the intent to align US DOT regulations with international standards, we recommend RSPA review the acceptance of Sequence 1, identified above, to harmonize with ICAO regulations.

(a)(5)(b) "...Alternatively, the identification (ID) number may be listed first and the proper shipping name may be listed directly following the class and subsidiary risk. For example, "UN2744, 6.1, (8,3), Cyclobutyl chloroformate, PGII."

As previously discussed, ICAO allows three distinct sequences of information. The sequence proposed in this regulation represents a fourth sequence:

4) ID, PH (SR), PSN, PG

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Is RSPA actually proposing a fourth sequence of information or has RSPA transposed the proper shipping name and primary hazards (subsidiary risk)? To harmonize with current ICAO regulations, we recommend RSPA review the alternate sequence (Sequence 4) and consider Sequence 3, above, as a RSPA-approved sequence of information.

49 CFR 172.315

(a) Packagings containing limited quantities of hazardous materials need not be marked with the proper shipping name, but must be marked with the identification (ID) number, preceded by the letters "UN" or "NA," as applicable, and placed within a diamond...

The proposed regulation is a complete reversal from the current requirements for Limited Quantity packaging and is not in line with current ICAO regulations. ICAO Technical Instructions (TI) 4.3.4.5.1 requires the marking of packages containing Limited Quantities of Dangerous Goods in accordance with TI Part 5. TI 5.2.4.1.1 requires the package to be marked with the proper shipping name and, when assigned, the identification number.

The requirement of the diamond marking further burdens the shipper and may confuse both the carrier and the regulator. Appropriate required hazard class labels are also diamond shaped. The addition of a diamond *marking* on a Limited Quantity packaging may be confused with hazard class labels.

RSPA is proposing to modify the marking requirements for Limited Quantity packaging, however the proposed marking is not in harmony with current ICAO regulations. We recommend RSPA review the proposed Limited Quantity marking requirements; include both the proper shipping name and identification number as required by international standards but remove the requirement of a diamond-shaped marking.

49 CFR 172.323

(a) Air eligibility marking. Except as otherwise specified in this subchapter, each person who offers for transportation or transports by aircraft a hazardous material in a non-bulk package, including packages used for consumer commodities and limited quantities of hazardous materials, must mark the package to indicate that it meets the applicable requirements for air transport.

The wording of the proposed rule states "each person who offers for transportation *or transports* [italics added for emphasis] by aircraft a hazardous material..." The language can be interpreted to include carriers who transport a hazardous material "must mark the package..." therefore placing the burden of applying the label on the carriers. 175.30(a)(5) clarifies that carriers may not accept hazardous material shipments that have not been marked with the air eligibility marking, however the language in 172.323 is certainly ambiguous and misleading.

In the summary portion of HM-215E for 172.323, RSPA states "the air eligibility marking would certify compliance with all applicable air transport package requirements, including ... package markings and

labels, ... application of the cargo aircraft handling label (when applicable), and proper classification.” As we understand ICAO’s intent for the air eligibility marking, the marking is to certify that the *packaging* meets the applicable air transport requirements. The ICAO requirements do not intend the marking to certify to the compliance of the package to all requirements including labeling and classification. Further, by applying the label, the shipper is certifying the packaging is appropriate for air transportation. If the marking is preprinted and RSPA stands on the interpretation that the package is properly packaged, marked, labeled and classified, the actual point of certification, affixing the label to the package, occurs *before* the appropriate labels have been applied.

We recommend RSPA review the wording of 172.323 and modify the language to clarify the label must be applied by “each person who offers for transportation”, not by the carrier who “transports by air.” Additionally, we recommend RSPA review their interpretation of what the air eligibility marking certifies and modify their interpretation to align with ICAO’s regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "M.R. Craig", with a stylized, flowing script.

Myles R. Craig
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